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IN THE HONOURABLE CHHATTISGARH HIGH COURT OF JUDICATURE AT BILASPUR

Criminal Appeal No. 173 / 2002.

(Criminal Appeal)

Appellant	:	**Raju Khanna @ Raj Singh S/o Jagjeet Singh, Businessman by profession, aged about 24 years, R/o Mayapur, Ambikapur, Distt: Surguja, Chhattisgarh.**
Versus		
Respondent	:	**State of Chhattisgarh through Police Stn: Ambikapur, Distt: Surguja, Chhattisgarh.**

Memo of Appeal U/S 374 (2) of Code of Criminal Procedure, 1973 against the judgment dated 02.02.2002 passed by the Court of learned Sessions Judge, Surguja [Ambikapur], in Sessions Trial Case no. 141/2000.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON. SHRI L.C. BHADOO AND HON. SHRI DHIRENDRA MISHRA,JJ

Criminal Appeal No. 173 OF 2002

Appellant	**Raju Khanna**
	Vs
Respondent	**State of Chhattisgarh**

Mrs. Hamida Siddique with Mrs. Renu Kochar, learned counsel for the appellant.

Mr. U.N.S. Deo, learned Additional Public Prosecutor for the State/respondent.

ORAL JUDGMENT
(27.11.2006)

Per L.C. Bhadoo, J

By this appeal under Section 374(2) of the Code of Criminal Procedure accused/appellant Raju Khanna @ Raj Singh has questioned the legality and correctness of the judgment of conviction and order of sentence dated 2.2.2006 passed by Sessions Judge,

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Ambikapur in S.T.No. 141/2000 whereby the learned Sessions Judge after holding the accused/appellant guilty for commission of the offence under Section 302 of the Indian Penal Code, for committing the murder of Sanjay, sentenced him to undergo imprisonment for life.

2. Case of the prosecution in brief is that on 6.12.1999 at about 8.30 p.m. Sonu Uraon, Ashok Uraon, Chaman Panika were sitting in the house of one Mahesh. Sanjay, Raju and Chaman were consuming liquor in the house of Mahesh. At that time some dispute arose between Sanjay and Raju. Raju took out a knife from attire, attacked Sanjay with knife six times on his stomach, twice on his right leg, twice on the back side of waist, thereafter Raju Khanna fled away from there. Inder Soni, Sonu and Guddu took Sanjay to the Government Hospital in a rickshaw. Raju attacked Sanjay Uraon with an intention to cause his death. Receiving report to that effect from Inder (PW-9), Station House Officer, Ambikapur registered crime No. 666/99 for commission of the offence under Section 307 of the IPC. Dying declaration (Ex.P/12) was recorded by Sarwanathram (PW-10), Executive Magistrate in the hospital on 7.12.1999 itself. Sanjay was

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आदेश पत्रक (पूर्वानुबद्ध)

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discharged from the Government hospital and he was shifted to Mission Hospital, Ambikapur where he remained up to 12.12.1999 and thereafter he was shifted to Sector -9 Hospital, Bhilai where during the treatment he breathed his last on 15.12.1999. Merg intimation (Ex.P/14) was sent to the police station. Receiving this report offence was converted into Section 302 of the IPC. The investigating officer after giving notice (Ex.P/15) to the Panchas, prepared the inquest (Ex.P/16) on the body of deceased Sanjay. Dead body of Sanjay was sent for examination to Govt. Hospital, Durg under Ex.P/17 where Dr. Lal Mohammad (PW-15) conducted postmortem, prepared postmortem report (Ex.P-18) and opined that cause of death was septicemic shock and as many as nine injuries were inflicted to the deceased which were as follows:

(i) one incised wound on upper part of the stomach in the size of 3 x 1 cm;

(ii) incised wound on the right side of stomach in the size of 2 x 0.5 cm;

(iii) incised wound on the right side of the stomach in the size of 2 x ½ cm;

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 4	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(iv) incised wound on the left side of the stomach in the size of 6 x 1 ½ cm

(v) incised wound on the left side of the stomach in the size of 2 x 5 cm;

(vi) incised wound on the left side of the chest in the size of 3 x 1 cm;

On account of above injuries the membrane of intestine in the omentum was coming out of the stomach.

(vii) incised wound on the right auxiliary region in the size of 3 x ½ cm;

(viii) incised wound on the lower part of the stomach in the size of 2 x ½ cm;

(ix) incised wound inside the left upper part of the leg in the size of 4 x 2 ½ x 5 cm.

The doctor opined that the above injuries were caused by hard and sharp object and the same were grievous in nature and further opinion will be given by operating surgeon. When the injured Sanjay was admitted in the hospital, his condition was serious, pulse rate was

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 5	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

very slow, blood pressure was low which was not recordable and he prepared the injury report Ex.P/6. PW-8 Dr. Amit Topno who operated upon Sanjay in Holly Cross Hospital, Ambikapur has stated that there were seven wholes in the small intestine in the size of 1 x 2 x 2 cm at two places, mesentery was torn, there was a whole in the size of 2 cm in the large intestine, the spleen was also ruptured. He has further stated that in view of serious condition of the injured, he opined for transfer of injured to Medical College, Raipur. He further stated that the injuries were grievous and were sufficient to cause death. His report is Ex.P/9. PW-15 Lal Mohammad who conducted postmortem on the dead body of Sanjay, has stated about the injuries, stitched wounds and submitted that there were 22 stitches, there was puss in the stomach and deceased Sanjay died on account of shock as septicemia infection. His report is Ex.P/18.

3. During investigation the investigating officer prepared the site plan (Ex.P/2) of the place of occurrence and collected the medical papers regarding treatment of Sanjay. After completion of the investigation charge sheet was filed in the Court of Chief Judicial

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 6	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Magistrate, Ambikapur who in turn committed the case to the Sessions Judge, Ambikapur where in order to establish the charge against the accused prosecution examined 17 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the incriminating circumstances appearing against him in the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime.

4. Learned Sessions Judge after hearing the arguments of respective counsel, convicted and sentenced the accused as aforementioned.

5. We have heard Mrs. Hamida Siddique with Mrs. Renu Kochar, learned counsel appearing on behalf of the accused/appellant and Mr. U.N.S. Deo, learned Additional Public Prosecutor for the State/respondent.

6. Learned counsel for the accused/appellant has not disputed the homicidal death of Sanjay. Apart from that, from the ocular evidence of PW-1 Sonu, PW-4 Ram Prasad, PW-6 Anita it has been

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 7	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

established that the accused along with other persons was consuming liquor in the house of Mahesh where on some petty quarrel, the accused assaulted deceased Sanjay with knife. Even from the medical evidence which has been referred to above, the injuries sustained by the deceased were grievous and dangerous to life. Deceased Sanjay was operated upon and thereafter he died in Sector – 9 Hospital, Bhilai. The above evidence establishes that Sanjay died homicidal death.

7. As far as involvement of the accused in crime in question is concerned, eyewitnesses namely PW-1 Sonu, PW-3 Aasha, PW-4 Ram Prasad and PW-9 Inder Soni have turned hostile. But as per the settled law, the admissible portion or relevant portion of the statement of a hostile witness can be looked into. PW-1 Sonu has stated that on the fateful evening he was watching T.V. in the house of Mahesh, at about 8.00 p.m. Ashok and Inder were also watching T.V. along with him. At that time accused Raju Khanna and deceased Sanjay also came there, they started consuming liquor and during that period, some dispute arose between the accused and the deceased. On

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 8	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

cross-examination by the Additional Public Prosecutor, he has further stated that on hearing the commotion outside the room, he saw that accused Raju and deceased Sanjay were exchanging hot words, other persons were also standing there, Sanjay fell down in front of the house of one Aasha. He informed his sister about the condition of Sanjay. At that time Raju was not present. PW-2 Ashok has also turned hostile but on the cross-examination by the Additional Public Prosecutor, he has stated that he was watching T.V. in the house of Mahesh, at that time Raju, Chaman and Sanjay came there, but he did not know as to whether all the three sit together, started consuming liquor. He has further stated that he did not know as to whether some quarrel took place between the accused and the deceased.

PW-3 Aasha has stated that she saw the deceased lying in front of her house, she did not saw the injuries on the body of Sanjay. PW-4 Ram Prasad, son of Mahesh, has stated that on the fateful night he along with Sonu, Ashok and Inder were watching T.V., at that time Sanjay, Raju and Chaman were sitting in the courtyard

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consuming liquor and thereafter, they went out of the house. He closed the door. On hearing commotion outside the house, he did not come out of the house, he thought that some persons were quarrelling but he did not know as to who were quarrelling. PW-6 Anita, sister of deceased Sanjay, has stated that on the fateful night she was at her residence and her brother Sanjay along with accused Raju was consuming liquor in the house of Ram Prasad. Thereafter, deceased Sanjay and the accused Raju quarreled in front of her house. Sonu came and informed her that Raju has attacked Sanjay with knife and Sanjay has become unconscious, on which she called her husband and they went to see Sanjay who was lying on cot near the shop of Aasha. They took him to the hospital.

PW-9 Inder Soni who lodged the report has turned hostile and stated that he did not know as to how Sanjay was attacked, on which part of the body he sustained injuries. From the above evidence it is established that deceased Sanjay along with accused Raju Khanna, Ashok and Chaman were consuming liquor in the house of Mahesh, same quarrel took place between deceased Sanjay and accused Raju

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आदेश पत्रक (पूर्वानुबद्ध)

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and thereafter, deceased Sanjay was found in an injured condition in front of house of Aasha. During investigation the dying declaration of Sanjay was recorded by PW-10 Sarwanathram, Executive Magistrate, who has stated that on 7.12.1999, Sanjay was admitted in the Govt. Hospital, Ambikapur and he was talking. He enquired from Sanjay whereupon on oath he stated that on 6.12.1999 they were sitting in the house of Mahesh and Chaman, Rajeev @ Raju Khanna, accused were also there. Rajeev Khanna was a tenant in the house of Aakin, they were discussing, at that time Chaman said that the tenants do not have any status, which was supported by him, on which Rajeev came out of the house. When he (Sanjay) came out of the house, Raju attacked him on the stomach with knife. The above statement was recorded as per the version of Sanjay and the same is Ex.P/12 which bears his signature from 'A' to 'A' and 'B' to 'B' and the signature of Sanjay is from 'C' to 'C'. Thereafter, he sent the dying declaration and medical certificate to the police station.

8. Learned counsel for the accused/appellant argued that reliance cannot be placed on this dying declaration for the reasons that (i)

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before recording the statement of the deceased, the Executive Magistrate did not obtain certificate of the doctor to ascertain the fact whether Sanjay was in a fit state of mind to give statement; (ii) the time of recording of the statement has not been mentioned by the Executive Magistrate; and (iii) before recording the statement, the Executive Magistrate has not enquired from Sanjay regarding his physical and mental condition to satisfy himself about the fitness of Sanjay to give statement.

9. Having heard counsel for the accused/appellant we have perused the record. It is true that on dying declaration (Ex.P/12) there is no certificate of the doctor regarding mental condition of Sanjay at the time of recording his statement. In this connection in the celebrated judgment of the Apex Court rendered by the Constitution Bench in the matter of **Laxman Vs. State of Maharashtra** reported in **(2002) 6 SCC 710** it has been held that the situation in which a man is on the deathbed is very solemn and serene, is the reason in law to accept the veracity of his statement. It is for this reason that the requirements of oath and cross-examination are dispensed with.

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Since the accused has no power of cross-examination, the courts insist that the dying declaration should be of such a nature as to inspire full confidence of the court in its truthfulness and correctness. The court, however, has always to be on guard to see that the statement of the deceased was not as a result of either tutoring or prompting or a product of imagination. The court also must further decide that the deceased was in a fit state of mind and had the opportunity to observe and identify the assailant. Normally, therefore, the court in order to satisfy whether the deceased was in a fit mental condition to make the dying declaration looks up to the medical opinion. But where the eyewitnesses state that the deceased was in a fit and conscious state to make the declaration, the medical opinion will not prevail, nor can it be said that since there is no certification of the doctor as to the fitness of the mind of the declarant, the dying declaration is not acceptable. Even there is no requirement of law that a dying declaration must necessarily be made to a Magistrate and when such statement is recorded by a Magistrate there is no specified statutory form for such recording. What is essentially required is that the person who records a dying declaration must be satisfied that the

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश /3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

deceased was in a fit state of mind. Where it is proved by the testimony of the Magistrate that the declarant was fit to make the statement even without examination by the doctor the declaration can be acted upon provided the court ultimately holds the same to be voluntary and truthful. A certification by the doctor is essentially a rule of caution and therefore the voluntary and truthful nature of the declaration can be established otherwise.

10. In the matter of **P.V. Radhakrishna Vs. State of Karnataka** reported in **(2003) 6 SCC 443** the Apex Court held that if the person recording the dying declaration is satisfied that the declarant is in a fit medical condition to make a dying declaration then such a dying declaration will not be invalid solely on the ground that his condition is not so certified by a doctor.

11. Therefore, in view of the above judgments of the Apex Court before relying upon the dying declaration, it has to be seen that the Magistrate who recorded the statement of the deceased was satisfied that the declarant was fit to make statement and such evidence of the Executive Magistrate can be relied upon. In the present case,

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Sarwanathram (PW-10), Executive Magistrate who recorded the dying declaration of Sanjay has stated that Sanjay was in the Govt. Hospital, Ambikapur and he was talking. He has further stated that on his asking Sanjay said everything on oath and after recording the statement Sanjay signed from 'C' to 'C' portion. In paragraph – 4 of his cross-examination he has stated that it is correct to say that at the time of recording dying declaration of Sanjay there was no certificate of the doctor on the sheet of dying declaration to the effect that Sanjay was physically and mentally fit while giving statement. He has further stated that he sent the medical certificate along with the memo. It is correct to say that in the forwarding letter (Ex.P/3) it was not specifically written that Medical Certificate of Sanjay regarding fitness to give statement is sent herewith. From the evidence of Sarwanathram (PW-10) medical certificate was obtained and that was sent with dying declaration but the same has not been proved by the prosecution. However, from the above evidence of this witness, it is established that at the time of giving statement Sanjay was in a fit state of mind and there is no reason to disbelieve the evidence of this witness that Sanjay was in a fit state of mind to give dying declaration.

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12. The incident occurred on 6.12.1999, Sanjay was operated upon on 7.12.1999 in the Mission Hospital, Ambikapur and he died on 15.12.1999 in Sector – 9 Hospital, Bhilai. There is nothing in the evidence of Dr. Amit Topno (PW-8) who conducted surgery upon Sanjay, to show that Sanjay at any point of time was unconscious. Even though Dr. R.K. Thawait (PW-5) has stated that when Sanjay was admitted in the hospital, he was serious, his pulse rate was slow and blood pressure was also low, but it has nowhere been stated that he was not in a position to speak. Moreover, the statement was recorded on 7.12.1999 and the Executive Magistrate has categorically stated that Sanjay was in a position to speak and that is why he recorded his statement. As per the above judgments of the Apex Court, the medical certificate in all cases regarding mental condition of the declarant is not necessary.

13. Learned counsel for the accused/appellant in support of her argument relied upon decision of the Apex Court in the matter of **Paparambaka Rosamma and others Vs. State of Andhra Pradesh** reported in **AIR 1999 SC 3455**.

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14. However, this judgment was already considered in the Constitution Bench judgment Laxman Vs. State of Maharashtra (supra), therefore, this judgment is of no help to the accused.

15. As far as non-mentioning of time when the statement was recorded by the Executive Magistrate (PW-10) Sarwanathram is concerned, it is true that time has not been recorded on the dying declaration (Ex.P/12) but on this count alone the dying declaration cannot be disbelieved.

16. Now coming to the dying declaration of Ex.P/12, deceased Sanjay has categorically stated that on 6.12.1999 in the evening they were sitting in the house of Mahesh Kumar. Chaman and Rajeev Khanna were also present there. Rajeev Khanna was residing forcefully as a tenant in the house of one Aasin, therefore, they were discussing about that topic, on which Chaman said that the tenants do not have any status, which was supported by Sanjay. Thereafter, Rajeev came out of the room and when Sanjay also came out, he attacked him with knife on his stomach and it was at about 8.30 p.m.

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The above dying declaration apart from the statement of Sarwanathram (PW-10), Executive Magistrate who recorded the dying declaration, is corroborated in material particular by the evidence of PW-1 Sonu, PW-2 Ashok, PW-4 Ram Prasad and PW-6 Anita who have stated that at the time of incident the accused and the deceased along with Ashok and Inder were sitting in the house of Mahesh, there they were consuming liquor and at that time some dispute ensued between Raju and Sanjay. Therefore, to this extent the presence of the accused at the place of incident as also the dispute between the deceased and the accused, is established from the ocular evidence and further that the accused attacked the deceased with knife stands established by the dying declaration of the deceased. Nothing has come on record which shows that prior to this incident, the deceased or the accused has any animosity and on that count the accused has been falsely implicated. Thus, the dying declaration (Ex.P/12) inspires confidence of the Court, the same is corroborated by the ocular evidence to some extent about the presence of the accused at the place of occurrence as also about the quarrel between the deceased

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and the accused. Therefore, involvement of the accused in crime in question is established.

17. Learned counsel for the accused/appellant argued that in the evidence of Dr. Lal Mohammad (PW-15) who conducted postmortem on the body of deceased Sanjay, it has come on record that Sanjay died on account of infection as a result of septicemia. Death was not direct result of injuries sustained by him, therefore, the offence alleged against the accused does not travel beyond Section 304-II of the IPC.

18. On the other hand, Mr. U.N.S. Deo, learned Additional Public Prosecutor supported the judgment of the trial Court.

19. In order to appreciate the arguments advanced by learned counsel for the respective parties, we have perused the evidence on record. First of all the injuries present on the body of Sanjay were examined by Dr. R.K. Thawait (PW-5) who has stated that the injuries were grievous in nature and the deceased was in a serious condition and therefore, on this count he has not been cross-examined. Dr. Amit Topno (PW-8) who conducted surgery upon Sanjay regarding the

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injuries has stated that the injuries were grievous in nature and sufficient to cause death. As has been mentioned earlier that out of the nine injuries eight were on the vital part of the body and as per the evidence of this surgeon, even there were seven wholes in the small intestine, the mesentery was ruptured at two places, there was one whole in the large intestine and the spleen was also ruptured. In this case, as per the evidence available on record the accused was residing as a tenant in the house of one Aasin, the accused and deceased along with other persons were consuming liquor in the house of Mahesh, at that time Chaman said that the tenants have no status, which was supported by the deceased, whereupon accused went out of the house and when the deceased Sanjay also came out, he was waiting outside for him and started assaulting him with knife and he continuously assaulted him nine times with knife, out of which seven injuries were on the stomach, one was on the auxiliary region and one was on leg. As per the medical evidence the membrane of intestine was coming out and there was perforations in the large and small intestines as also the spleen was ruptured. As per the decision of the Apex Court in the matter of **Thangaiya Vs. State of Tamil**

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 20	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Nadu reported in **2005 Cri.L.J. 684** to gather the intention of the accused the weapon used, size of the weapon, place where the assault took place, background facts leading to the assault, part of the body where the blow was given, are some of the factors to be considered. In the present case, the accused assaulted the deceased with knife a deadly weapon, and that too, on the vital part of the body i.e. stomach as a result of which spleen was ruptured, mesentery was ruptured, there were wholes in the small and large intestine, which shows that the accused took undue advantage by having arm and acted in a cruel and unusual manner by causing as many as eight injuries on the vital part of the body. Dr. Lal Mohammad (PW-15) has stated that the deceased died as a result of infection on account of septicemia but it is not a case that it was the sole ground since as per the evidence of Dr. Amit Topno (PW-8) the injuries which were found on the body of deceased Sanjay were grievous and sufficient to cause death as has been mentioned earlier. Therefore, the injuries present on the vital part of the body of deceased which were inflicted by the accused, shows the intention of the accused to cause death of deceased Sanjay.

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20. Exception 2 to Section 299 envisages that "Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented." Therefore, in view of the above explanation and looking to the serious nature of the injuries caused on the vital part of the body of deceased, it cannot be said that the death of Sanjay was not the direct result of the injuries sustained by him.

21. Learned counsel for the accused/appellant relying upon the decision of the Apex Court in the matter of **Adu Ram Vs. Mukna and others** reported in **2004 Cri L.J. 4674** argued that in this cited case, there were as many as 34 injuries and the Apex Court held that the offence under Section 304-II was made out.

22. We have gone through the above cited case and find that the present case is distinguishable on facts from that case. Even though in that case there were 34 injuries including several fracture injuries but the injuries were all seen on the hand and other non vital parts of

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the body, there was no grievous injury on the head, all the injuries on the head were simple in nature and therefore, under these circumstances, the Apex Court held that the offence against the accused persons does not travel beyond Section 304-II of the IPC. However, in the present case as many as seven injuries were caused by the knife on the vital part of the body i.e. stomach as a result of which spleen and mesentery were ruptured and there were wholes in the large and small intestines

23. The another judgment of Apex Court cited by learned counsel for the accused/appellant rendered in the matter of **Sukhdev Singh Vs. Delhi State (Govt. of NCT of Delhi)** reported in **(2003) 7 SCC 441** is also distinguishable on facts in which the offence was committed in a sudden quarrel and the offender fired a shot whereas in the present case some dispute arose between the accused and the deceased at the place where both the them were consuming liquor and thereafter the accused came out from that place, he was waiting outside the place in the street and when the deceased came outside, he assaulted him with knife on the vital parts of the body nine times

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causing grievous injuries which were sufficient in the ordinary course of nature to cause death. In the instant case there was a gap of time between the assault and when the dispute arose at the time of consumption of liquor i.e. there was sufficient time for the accused to cool down his temper. Moreover, Chaman said to the accused that the tenants have no status, therefore, the main grievance of the accused was against Chaman, not against Sanjay but the accused assaulted Sanjay.

24. Other decision relied upon by learned counsel for the accused/appellant is of the Apex Court delivered in the matter of **Harish Kumar Vs. State (Delhi Admn.)** reported in **1994 SCC (Cri) 581** in which the Apex Court held that looking to the nature of injuries, time gap between the time of infliction of the injury till time of death and lack of sufficient material as to nature of treatment given to deceased during that period, it cannot be conclusively said that the injury was sufficient in the ordinary course of nature to cause death. There was an injury on the neck in that case which was as opined by the doctor sufficient in the ordinary course of nature to cause death

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and the Apex Court held that the offence fall under Section 304-II of the IPC and not under Section 302 since the deceased died two days after infliction of the injury and there was no material on record to conclusively show that the injuries were sufficient in the ordinary course of nature to cause death. Whereas, in the present case the spleen was ruptured, mesentery was ruptured, there were seven wholes in the small intestine and one whole in the large intestine. These injuries on the vital parts of the body itself show that the same were sufficient in the ordinary course of nature to cause death as has been stated by Dr. Amit Topno who operated upon the deceased. Therefore, this judgment is also of no help to the accused/appellant.

25. In the result, we do not find any illegality or infirmity in the impugned judgment of the trial Court. Accordingly, the appeal being devoid of substance deserves to be dismissed and it is hereby dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge

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